United Nations

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

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I. INTRODUCTION

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 50/52 of 11 December 1995 and met at United Nations Headquarters from 21 February to 5 March 1996.

2. In accordance with paragraph 5 of General Assembly resolution 50/52, the Special Committee was open to all States Members of the United Nations.

3. On behalf of the Secretary-General, Mr. Hans Corell, the Legal Counsel, opened the 1996 session of the Special Committee and made a statement.

4. Miss Jacqueline Dauchy, Director of the Codification Division of the Office of Legal Affairs, and Mr. Manuel Rama-Montaldo, Deputy Director for Research and Studies of the Codification Division, acted as Secretary of the Special Committee and its Working Group. Ms. Christiane Bourloyannis-Vrailas, Mr. Mpazi Sinjela and Mr. Vladimir Rudnitsky, Legal Officers from the Codification Division, acted as Assistant Secretaries of the Special Committee and its Working Group.

5. At its 207th and 208th meetings, on 21 and 22 February 1996, the Committee, bearing in mind the terms of the agreement regarding the election of officers reached at its session in 1981, 1/ and taking into account the results of the pre-session consultations among its Member States, elected its Bureau, as follows:

Chairman: Ms. María del Luján Flores (Uruguay)

Vice-Chairmen: Ms. Paula Ventura de Carvalho Escarameia (Portugal)
Mr. Seyed Hossein Enayat (Islamic Republic of Iran)
Mr. Phakiso Mochochoko (Lesotho)

Rapporteur: Mr. Martin Šmejkal (Czech Republic)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group.

7. Also at its 208th meeting, the Special Committee adopted the following agenda (A/AC.182/L.86):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the questions mentioned in General Assembly resolution 50/52 of 11 December 1995, in accordance with the mandate of the Special Committee as set out in that resolution.
6. Adoption of the report.

8. At its 209th meeting, on 22 February 1996, the Special Committee established a Working Group of the Whole and agreed on the following organization of work: four meetings would be devoted to proposals relating to the maintenance of international peace and security; three meetings would be allocated to proposals regarding the peaceful settlement of disputes between States; one meeting to consider proposals concerning the Trusteeship Council; two meetings to the question of the status of the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council; three meetings to the identification of new subjects for consideration in the Special Committee's future work; and two meetings to the consideration and adoption of the report. It was also understood that delegations, if they so wished, could make general statements in plenary meetings and that the distribution of meetings would be applied with the necessary degree of flexibility, taking into account the progress achieved in the consideration of the items.

9. The Special Committee heard general statements at its 208th to 214th meetings, held on 22, 23 and 26 to 29 February 1996.

10. With regard to the question of the maintenance of international peace and security, the Special Committee had before it a working paper entitled "Some observations regarding the implementation of the provisions of the Charter of the United Nations, including Article 50 on assistance to third States adversely affected by the application of sanctions under Chapter VII of the Charter", submitted by the Russian Federation (see para. 42 below); a revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (A/AC.182/L.90) (see para. 56 below); and a second revised working paper submitted by Cuba, entitled "Strengthening of the role of the United Nations in the maintenance of international peace and security: strengthening of the role of the Organization and enhancing its effectiveness", which had been submitted to the Special Committee at its 1995 session. 2/

11. With respect to the question of the peaceful settlement of disputes between States, the Special Committee had before it a proposal entitled "Establishment of a dispute settlement service offering or responding with its services early in disputes", submitted by Sierra Leone at the previous session of the Special Committee. 3/ It also had before it an annotation to the above-mentioned proposal contained in a letter dated 1 September 1995 by the Permanent Representative of Sierra Leone to the United Nations addressed to the Secretary-General (A/50/403, annex) (see para. 65 below).

12. With regard to the identification of new subjects for consideration by the Special Committee, it had before it a working paper entitled "Draft declaration on the basic principles and criteria for the work of United Nations peace-keeping missions and mechanisms for the prevention and settlement of crises and conflicts", submitted by the Russian Federation (A/AC.182/L.89) (see para. 128 below).

II. RECOMMENDATIONS OF THE SPECIAL COMMITTEE

13. The Special Committee submits to the General Assembly:

(a) As regards the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, the recommendation contained in paragraph 55 below;

(b) As regards the status of the Repertory of Practice of United Nations Organs and of the Repertoire of the Practice of the Security Council, the recommendation contained in paragraphs 125 and 126 below.

III. MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY

14. Observations relating to various aspects of the question concerning the maintenance of international peace and security were made in plenary meetings of the Special Committee. Furthermore, in accordance with the decision taken by the Special Committee at its 209th meeting pursuant to paragraph 4 (a) and (b) of General Assembly resolution 50/52, those aspects of the question were also considered by the Working Group at its 1st to 4th, 6th and 11th meetings, from 22 to 27 February and on 1 March 1996.

A. Consideration of the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter

15. This question was addressed by several delegations in the context of general statements made in plenary meetings.

16. The importance of the question of implementing the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter was generally stressed. Some delegations pointed out that the question was also being discussed in other forums, and that it was necessary to avoid duplication of efforts. In this connection, a suggestion was made to the effect that the Bureaux of the organs concerned should agree on a division of labour, with the Special Committee concentrating on legal aspects.

17. The view was expressed that the adoption, after extensive consultations, of resolution 50/51 represented an extremely positive development that provided a solid point of reference for the debate on this subject in the Special Committee. It was stated that further reflection on the resolution's content and potential as well as on the ways of ensuring its prompt and adequate implementation would be very useful.

18. Resolution 50/51, it was recalled, addressed the issue of consultations under Article 50 of the Charter. It also recommended that the Security Council continue its efforts to enhance the effectiveness and transparency of the sanctions committees; recent measures adopted by the Council to that end were therefore welcomed. The point was further made that the implementation of the mandate entrusted to the Secretary-General under paragraphs 3 and 4 of the resolution would greatly contribute to meeting the concerns of third States potentially or actually affected by sanctions regimes, while maintaining the effectiveness of such regimes. Emphasis was also placed on paragraph 6 of the resolution, which dealt with the role of international financial institutions, other international organizations and Member States in the field of assistance to third States affected by the application of sanctions.

19. Regarding paragraph 6 of resolution 50/51, the suggestion was made, on the other hand, that the international financial institutions should adopt special programmes to address the adverse effects on third States of economic sanctions imposed under Chapter VII.

20. The important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring economic assistance efforts to affected third States, referred to in paragraph 5 of resolution 50/51, was highlighted as well.

21. There was also the view that, while resolution 50/51 constituted a step in the right direction, the question under consideration was a complex one and merited further examination in the Special Committee. In this connection, it was emphasized that the Secretary-General's latest report on the subject (A/50/361) contained a number of proposals providing a good basis for discussion.

22. The view was further expressed that resolution 50/51 dealt more with procedural issues than with the substantive issue of the provision of financial assistance to affected third States. It was moreover stated that it was necessary to match such procedural elements with substance and to go beyond resolution 50/51.

23. The point was made that, in discussing the question of assistance to third States affected by the application of sanctions, it was essential that the overall effectiveness of sanctions regimes be preserved and that the exercise of the Security Council's powers under Chapter VII of the Charter should not be prejudiced. It was therefore believed that the notion of a right to compensation in favour of third States, which right could be seen as a condition for the application of measures under Chapter VII, should not be introduced. In this context, it was stressed that the establishment of a new permanent mechanism, such as a trust fund, could not represent a viable or appropriate solution to the problems of third States.

24. It was emphasized, however, that the cost resulting from actions collectively decided upon by the international community should be equitably shared by all Member States. The view was expressed that, under Article 50 of the Charter, the Security Council had an obligation to find a solution to the special economic problems of third States which had consulted the Council in this respect. Responsibility for the resolution of such problems lay with the Security Council, as the organ deciding on the imposition of sanctions; such responsibility could not be transferred to international financial institutions. It was felt that a durable solution could only be found in the establishment of a permanent mechanism to which third States could resort for a practical remedy to their problems. Such mechanism, it was added, would apply automatically when needed and therefore had the advantage of providing predictable solutions. There was further the view that this permanent mechanism should have a financial component with adequate resources. The view was also expressed that the Charter law and practice on sanctions provided ample evidence of a right to compensation in such a situation, as demonstrated by the establishment of the United Nations Compensation Commission under relevant resolutions of the Security Council.

25. Support was expressed for the proposal regarding the establishment of a mechanism of consultations between affected third States and the donor community to assess the needs of the former and search for solutions to their problems. It was also believed that the role which might be played by international financial institutions in this field should be explored further.

26. Other remedial measures proposed for consideration included a preliminary assessment of sanctions or a pre-feasibility study; burden-sharing on an objective and cost-effective basis; regimes of exemption; and criteria for suspension.

27. The point was made that measures aimed at directly offsetting losses incurred by third States because of the application of sanctions should be combined with long-term measures, such as preferential cooperation projects and

bilateral and multilateral loans, which would strengthen the capacity of such States to weather the negative impact of sanctions.

28. As for alternative, non-financial measures of assistance, the following were suggested: allocating a share of future reconstruction and development projects to affected third States; providing technical and other project-oriented assistance to such States on a priority basis; promoting foreign investment in such States through investment guarantees; broadening access for suppliers from such States to orders of United Nations humanitarian assistance and peace-keeping operations; allocating resources to long-term transport and other infrastructure projects; and offering special trade preferences to affected States on a temporary basis.

29. It was observed that the question of the effect of sanctions on the labour sector of third States also deserved careful consideration. Sanctions could affect the employment of migrant workers as well as the presence, in the State on which sanctions were imposed, of consular personnel from such workers' State of nationality, and entailed additional transport costs where direct air transport links were severed.

30. The view was expressed that sanctions were a useful instrument for responding to threats to the peace, breaches of the peace and acts of aggression. But there was also the view that sanctions should not be used as the primary means for settling international disputes and that, as practice had shown, sanctions were far from being effective and were not always the most legally justified means for the peaceful settlement of disputes.

31. It was observed that the question of the procedure and the criteria governing the implementation and the lifting of sanctions merited further discussion. It was pointed out that, prior to taking a decision, the Security Council had an obligation to consult, with third States that were likely to be affected by the imposition of sanctions, in accordance with Article 31 of the Charter. It was suggested that a permanent consultation mechanism should be established for that purpose. Support was also expressed for the proposal presented and currently being examined in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council concerning the application of that Article. It was also suggested that resolutions imposing sanctions should provide for periodic reviews of their implementation. It was further proposed that a mechanism should be established to assess, in an impartial manner, whether a State against which sanctions had been imposed had fulfilled the requirements for the lifting of such sanctions. The opinion of such a body, possibly composed of eminent jurists such as members of the International Court of Justice, would not be binding on the Security Council.

32. The view was expressed that the consideration of criteria for the application of sanctions regimes, particularly legal criteria, and the concept of the "humanitarian limits" of sanctions, did not lie within the mandate of the Special Committee. It was felt that the consideration of those issues should not be linked to the question of assistance to third States affected by the imposition of sanctions.

33. As regards the working paper submitted by the Russian Federation (see para. 42 below) on the question of sanctions, delegations expressed the view that it raised important issues and deserved further consideration.

34. As pointed out above, the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter was also discussed in the Working Group.

35. At its 1st meeting, held on 22 February 1996, the Working Group was informed of the arrangements made by the Secretariat concerning the implementation of paragraphs 3 and 4 of General Assembly resolution 50/51.

36. It was pointed out that, subsequent to the adoption of the resolution, representatives of the Department of Political Affairs, the Department for Policy Coordination and Sustainable Development, the Department for Economic and Social Information and Policy Analysis and of the Office of Legal Affairs had held a meeting with a view to deciding, as contemplated in the resolution, the most appropriate arrangements to be made in the relevant units of the Secretariat, in order to carry out, in a coordinated way, the functions spelled out in paragraph 3 as well as the preparation of the report and of the guidelines requested from the Secretary-General in paragraph 4 of the resolution. It had been agreed that the Secretary-General's mandate as set forth in paragraph 3 of resolution 50/51 would be carried out through a coordinated arrangement of cooperation by the competent departments mentioned above. The primary responsibility for the implementation of the various functions under paragraph 3 of the resolution would be distributed between the departments. Paragraph 3 (a) refers to collating, assessing and analysing information at the request of the Security Council and its organs on the effects of sanctions regimes in third States which are or may be specially affected by the implementation of sanctions and the resulting needs of such States, and keeping the Security Council and its organs informed. These tasks would be implemented by the Department of Political Affairs in consultation with the Department for Economic and Social Information and Policy Analysis. The Department of Political Affairs would be responsible for the tasks contemplated in paragraph 3 (b), which refers to providing advice to the Security Council and its organs at their request on specific needs or problems of those third States and presenting possible options so that, while maintaining the effectiveness of the sanctions regime, appropriate adjustments may be made to the administration of the regime or the regime itself with a view to mitigating the adverse effects on such States. The Department for Economic and Social Information and Policy Analysis, in consultation with the Department for Policy Coordination and Sustainable Development, would implement the tasks referred to in paragraph 3 (c), which deals with collating and coordinating information about international assistance available to third States affected by the implementation of sanctions, and making such information officially available to the interested Member States. The implementation of paragraph 3 (d) would be the joint responsibility of the Department for Policy Coordination and Sustainable Development and the Department for Economic and Social Information and Policy Analysis. That subparagraph deals with the exploration of innovative and practical measures of assistance to the affected third States through cooperation with relevant institutions and organizations inside and outside the United Nations system.

37. It was also understood that the above distribution of primary responsibilities did not preclude further cooperation between relevant departments, as appropriate, and it was noted that the setting in motion of the functions contemplated in several subparagraphs of paragraph 3 was dependent on a request either by the Security Council or by interested Member States. The preparation of the report requested under paragraph 4 of resolution 50/51 would

be divided among the above-mentioned departments under the coordination of the Office of Legal Affairs.

38. The representatives who spoke on this question stated that the information provided by the Secretariat was most useful and noted with satisfaction the fact that there was an ongoing process of coordination among the various departments concerned, including the Office of Legal Affairs. The tasks to be performed by the Secretariat would, in their view, help the Security Council perform its work more efficiently.

39. Some speakers made reference to the suggestion of the Secretary-General which was contained in his "Supplement to An Agenda for Peace" 4/ and was also referred to in the report of the Secretary-General to the General Assembly on this item. 5/ That suggestion related to the establishment of a mechanism to carry out five specified functions related to the question of assistance to third States affected by the application of sanctions under Chapter VII of the Charter.

40. It was pointed out in this connection that the subgroup of the Informal Open-ended Working Group on An Agenda for Peace had expressed some reservations concerning the proposal. In order to harmonize work in different bodies dealing with the same subject, it would be desirable for the Special Committee to make its position clear on this question.

41. In this respect, while some speakers indicated that "assistance" to those States did not necessarily have to be interpreted as tangible material support, other speakers were of the view that the support in question necessarily had to include a tangible element. A call was made for further elaboration of the proposal in order to avoid any confusion as to its intended meaning.

42. At the 3rd meeting of the Working Group, held on 23 February 1996, the representative of the Russian Federation introduced a working paper entitled "Some observations regarding the implementation of the provisions of the Charter of the United Nations, including Article 50 on assistance to third States adversely affected by the application of the sanctions under Chapter VII of the Charter". The paper read as follows:

> "1. As a measure, not involving the use of armed force, provided for under the Charter of the United Nations and taken by the Security Council, sanctions may be imposed in cases where the Council determines the existence of a real threat to the peace, breach of the peace or an act of aggression. In such cases, the main objective of imposing the sanctions is to induce the relevant State to cease or refrain from actions that represent a threat, a breach of international peace or an act of aggression. In the light of the foregoing, the imposition of sanctions is a legal act that reflects the will of the entire international community.
>
> "2. The 'threshold' for applying sanctions against those who obstinately ignore United Nations demands should be high, and precise criteria should be taken into account.
>
> "Such criteria include: a real threat to peace and security, the exhaustion of all other means, assessment of the probable consequences, ensuring that the reaction is commensurate with the threat, and so forth. It therefore follows that any sanctions must be a part of the search for a long-term political settlement of the conflict, reflect the strategic objectives of the international community and not those of only a few of

its members, and taken into account the political and 'physical' (in the sense of the death and suffering of the civilian population and the destruction of material values) price of such actions.

"3. In exceptional cases when the question of imposing sanctions arises, it would obviously be appropriate to bear in mind that the sanctions are one of the many political means of removing a real threat to the maintenance of international peace and security. In order to be justified and effective, the sanctions must adhere strictly to the provisions of the Charter of the United Nations. They should be based not on political expedience but on the solid basis of international law and should be implemented as prescribed by the Charter, in accordance with the principles of justice and international law. They should also serve not individual or group interests but the common interests of the entire international community.

"4. From the point of view of international law and justice, the sanctions should not have the unspoken objective of causing damage to third countries, for this would undermine the very idea of sanctions. The desire of a number of countries, including the Russian Federation (which as a result of the imposition of sanctions has suffered and continues to suffer very substantial material and financial losses) to elaborate practical ways and means to prevent the negative consequences of sanctions or, at least, to keep them to a minimum, are therefore fully justified. The proposals on this subject put forward by States, United Nations bodies and other international organizations, contained in the report of the Secretary-General (A/50/361) and the summary of the General Assembly's Subgroup on the question of United Nations-imposed sanctions deserve very close attention.

"These include: proposals on consultations with potentially affected States as regards the imposition of sanctions, and assessment of the potential impact of the sanctions on them; monitoring of the effect of sanctions; the possibility of establishing a time frame for the application of sanctions, based on their objectives; improving the methods of work and ensuring the transparency of the procedures of the Security Council and the sanctions committees; and assistance to third States affected by sanctions. Many of these proposals are already being take into account by the Security Council and put into practice; others require further scrutiny, including the consideration of the Council's discretionary prerogatives and the avoidance of additional financial costs.

"5. Particular attention should be given to the concept of the 'humanitarian limits' of the sanctions. The Russian Federation, which initiated the discussion of this issue in the United Nations, considers that the concept could include the following basic elements:

- Objective assessment of the short- and long-term social and economic consequences of sanctions both when the sanctions are being elaborated and when they are implemented;

- Inadmissibility of the situations in which the sanctions would cause unacceptable suffering to the civilian population especially its most vulnerable strata;

- Possibility of a periodic adjustment of the sanctions, taking into account the humanitarian situation and depending on how the

State targeted by the sanctions complies with the Security Council's demands;

- Possibility of including in Security Council decisions a temporary suspension of the sanctions in exceptional, force majeure circumstances in order to prevent a humanitarian catastrophe;

- Ensuring the unimpeded access of humanitarian aid to the populations of countries against which sanctions are imposed, especially potentially unstable countries and the least developed countries;

- Maximally simplified system for granting permission for deliveries of humanitarian goods vitally needed by the population, and the exemption of medicines and staple food products from the scope of any Security Council sanctions regime;

- Strict observance of the principles of impartiality and avoidance of any form of discrimination in the provision of humanitarian and medical assistance and other forms of humanitarian assistance to the parties to the conflict.

"The foregoing, as well as other ideas that may be put forward, could serve as the basis for elaborating the proposed concept of the 'humanitarian limits' of the sanctions and their 'minimum standards' and could be taken into account by the Security Council in its consideration of sanctions-related problems.

"On the whole, it seems such a mechanism as sanctions should not be 'absolutized', for it is one of the means of a peaceful settlement of conflicts and, as has been shown in practice, is far from being the most effective. At times this mechanism may considerably complicate the settlement of a conflict and give rise to a whole range of social, economic, humanitarian and other problems that affect not only the parties to the conflict but the international community as a whole."

43. In his introductory remarks, the representative of the Russian Federation underscored the topicality of the subject which, he said, needed careful consideration in all its aspects.

44. In order to lessen the effects of sanctions on third States, he observed, careful consideration should be given to the place to be accorded to sanctions as a means of peaceful settlement of disputes. To accomplish that objective, it was necessary, firstly, to define the legal basis for the sanctions to be applied. He stressed that sanctions were justified only when there was a threat to the peace, a breach of the peace or an act of aggression. However, before the application of sanctions, all other peaceful means should first be exhausted. Sanctions should be applied in exceptional cases as a tool for putting pressure on the violator State and should be based on a firm legal footing and not on political expediency. Furthermore, to be effective, sanctions should be supported by all States. They should also avoid causing damage to third States.

45. In his view, before applying sanctions, consultations should be carried out with States that were likely to be affected. There was also the need to introduce a control monitoring mechanism on the impact of sanctions,

particularly on the civilian populations. Moreover, sanctions should be lifted as soon as the objectives had been met. There was also the need to include a humanitarian element in the sanctions to be applied in order to avoid severe negative consequences for the civilian populations in the target State. In order to avoid or to minimize the negative consequences, he suggested that international financial institutions and the International Committee of the Red Cross and other institutions with the necessary expertise should be consulted before sanctions were applied. The determination of the effects of sanctions prior to their application was particularly important in situations involving countries where there was no government. In such cases, the application of sanctions might only complicate the situation further and would make it more difficult to settle the dispute between the different parties concerned.

46. Some speakers who commented on the working paper considered that it contained useful elements which called for an in-depth discussion. It was observed in this connection that while sanctions were designed to put an end to a State's violation of rules, they should not be directed at the civilian population. For that reason, the working paper was useful in that it listed elements on humanitarian assistance to the affected population as well as elements which could make it easier to determine the legal basis for the application of sanctions. Adopting a criterion for identifying the legal basis for the application of sanctions would fill an existing gap and would contribute towards the maintenance of international peace and security.

47. However, some other speakers observed that while they shared the concerns expressed in the working paper, they nevertheless were of the view that the question of the effect of sanctions on the target State was not within the mandate of the Special Committee and it was being dealt with in other forums, especially the relevant subgroup of the Informal Open-ended Working Group on An Agenda for Peace. It was necessary to avoid duplication of work and not to divert the attention of the Committee from the item under consideration, which was confined to the question of assistance to third States affected by the application of sanctions, and more specifically, to aspects concerning the implementation of General Assembly resolution 50/51, the balanced result of a careful negotiation in the Sixth Committee.

48. The point was also made that it was not easy to see the link between the question of humanitarian assistance to the civilian population in the target country and the question of assistance to third States affected by the application of sanctions. Moreover, although the agenda item under consideration dealt with Article 50 of the Charter, the title of the working paper referred to "implementation of the provisions of the Charter of the United Nations including Article 50". The question was raised as to what other Articles dealt with the question of assistance to third States affected by the application of sanctions. It was also noted that the wording "unspoken objective" in paragraph 4 of the proposal was probably intended to mean "unintended effect". It was also observed that sanctions, as such, did not constitute a means of peaceful settlement of disputes.

49. In the view of some speakers the Special Committee was and remained the most suitable forum for the consideration of all aspects of the problem relating to sanctions, as they were currently being considered in different forums and in a piecemeal fashion.

50. The point was also made that while the working paper dealt with the question of imposition of sanctions in a comprehensive manner, including their lifting, which was also relevant to third States, it did not address the

question of sanctions during the time of their imposition up to their actual lifting, nor did it envisage mechanisms for the assistance to affected third States during that period. It was also suggested that the proposal should be revised and further elaborated with an emphasis placed on its paragraph 4, while paragraphs 2, 3 and 5 were less relevant to the item under consideration.

51. In response, the delegation author of the working paper stated that before one could talk of the negative consequences to third States resulting from the application of sanctions, there was first the need to clarify the international legal grounds for the application of sanctions in the settlement of the new generation of conflicts. Therefore there was a clear link between the two aspects. As for the title of the working paper, the word "including" denoted that there were other Articles of the Charter also of relevance to the topic under consideration, e.g., Article 39 (which deals with threats to the peace, breaches of the peace and acts of aggression), Article 41 (dealing with the measures that the Security Council may take not involving the use of armed force), and Articles 1 and 2 (which refer to the question of settlement of disputes by peaceful means). As to the words "unspoken objective" in paragraph 4, their meaning was "implied purpose".

52. The delegation author of the proposal expressed its intention, when revising the proposal, to give more attention to the question of harm to third States resulting from the application of sanctions. It also hoped to provide more detail on the applicability of sanctions in the context of the peaceful settlement of disputes, particularly disputes that were of an inter-ethnic character as well as those that were inter-State in nature.

53. Several speakers referred to the future work on the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter. According to some speakers, the results of the work at the fiftieth session of the General Assembly, which had culminated in the adoption of resolution 50/51, should not be viewed as an end in itself. Rather, the adoption of that resolution should be viewed as a starting-point towards finding more concrete mechanisms for assisting third States affected by the application of sanctions. In that connection, it was proposed to recommend to the General Assembly that, at its fifty-first session, the open-ended working group should be re-established in the framework of the Sixth Committee to deal with the question.

54. Other speakers expressed the view that, taking into account the facts that both the Secretariat and the Security Council were already taking responsive steps, that the Secretary-General had been requested in resolution 50/51 to submit a report to the General Assembly at its fifty-first session, and that the question was also under consideration in the Working Group on An Agenda for Peace, whose outcome was not yet known, as well as the need for rationalization of work, it would be premature to recommend the re-establishment of the working group in the Sixth Committee. It was moreover pointed out by a number of speakers that there was no need to reopen issues on this item, but that focus should solely be on the implementation of resolution 50/51.

55. As a result of its deliberations, the Special Committee invited the General Assembly at its fifty-first session to consider the question of an appropriate organizational framework for addressing further the implementation of the provisions of the Charter relating to assistance to third States affected by the application of sanctions under Chapter VII of the Charter and the implementation of the provisions of resolution 50/51 taking into account the

reports of the Secretary-General as well as the proposals presented and views expressed in the Special Committee.

B. Consideration of the revised proposal presented by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

56. At its 4th meeting, on 26 February 1996, the Working Group considered the revised proposal presented by the Libyan Arab Jamahiriya at the current session of the Special Committee (A/AC.182/L.90), the text of which read as follows:

"Revised proposal presented by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

"International peace and security greatly influence the life and welfare of peoples. That is why the maintenance of international peace and security is among the purposes and principles of the United Nations, as stipulated in the Charter. In order to achieve this purpose, the framers of the Charter of the United Nations sought to adopt the collective measures needed for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace. The Security Council has been entrusted with the primary responsibility for the maintenance of international peace and security. The Charter also states that the General Assembly may consider the general principles of cooperation in the maintenance of international peace and security and may make recommendations with regard to such principles to the Members or to the Security Council, or to both.

"The post-cold war era has created good opportunities for the United Nations to play the role entrusted to it by the Charter. This development has placed the Organization at the forefront of actions aimed at strengthening international cooperation in the maintenance of international peace and security. In order for the United Nations to better serve the international community in this field, it has to be restructured, and it has become necessary to take measures that would enhance the effectiveness of its principal organs, based on the principles of justice, democracy and the full, sovereign equality of Member States. The desired result of all of this is an active General Assembly capable of confronting international challenges, and a Security Council that embodies the changes in the international situation.

"The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization can contribute to efforts to reform and restructure the Organization. Within the framework of current efforts, the Special Committee should explore ways and means of revitalizing the General Assembly and highlighting its special role as the only organ with universal membership. Under the functions entrusted to it, the Special Committee should take part in reforming the Security Council and the way it is composed and in improving its working methods.

"The Libyan Arab Jamahiriya believes that the following ideas would help the Special Committee in achieving these ends, and trusts that discussions in the Committee would provide an opportunity to enrich and develop these ideas:

"1. Consideration of means of strengthening the role of the General Assembly in the realization of effective international cooperation in the maintenance of international peace and security, based on Articles 10, 11 and 14 of the Charter, since peace and security are the common responsibility of all Member of the United Nations;

"2. Proposing ways and means of enhancing the relationship between the General Assembly and the Security Council, based on Articles 15 and 24 of the Charter and within the framework of the work of the two organs in strengthening international peace and security;

"3. Development of criteria that would guarantee that the composition of the Security Council reflected the general membership of the United Nations, and criteria to guarantee equitable geographical distribution in the membership of the Security Council, in addition to the laying down of rules for a regular review of the composition and functioning of the Security Council;

"4. Specification of the procedural matters referred to in paragraph 2 of Article 27 of the Charter;

"5. Exploration of ways and means that would enhance the role of the Security Council in the maintenance of international peace and security; consideration of the negative effects of the application of the rule on the necessity of unanimity among the permanent members of the Security Council; how to limit the use of this rule, including the specification of questions in the consideration of which the rule should be suspended; and looking into certain areas where this rule should not apply, in addition to proposing measures that would lead to the final repeal of this rule."

57. In introducing the revised proposal, the sponsor pointed out that, though the ideas contained therein were not entirely new and had already been presented by his delegation to the Special Committee, the revision was aimed at expanding the concept of the strengthening of the role of the General Assembly and of the Security Council in the maintenance of international peace and security and at providing, to that end, a more effective interrelation between the two bodies in the post-cold war era. The issues dealt with in the proposal were well within the mandate of the Special Committee and had been before the Special Committee prior to their consideration by other bodies of the United Nations. Therefore, their examination by the Special Committee could assist other working groups of the General Assembly in this field. He further highlighted some ideas contained in the proposal for the discussion of which the Special Committee was one of the appropriate forums: ways and means of enhancing the relationship between the General Assembly and the Security Council in strengthening international peace and security; reinforcing the role of the General Assembly in the field of international peace and security; development of criteria to guarantee equitable geographical distribution in the membership of the Security Council as well as a periodic review of its membership; ensuring transparency in the work of the Council and its adaptation to the realities of the modern world; specification of the procedural matters referred to in Article 27 of the Charter of the United Nations; examination of ways and means to limit the use of the veto; identification of areas where the veto should not apply; and adoption of measures which would lead to its elimination.

C. Consideration of the revised working paper submitted by Cuba at the 1995 session of the Special Committee under the title "Strengthening of the role of the United Nations in the maintenance of international peace and security; strengthening of the role of the Organization and enhancing its effectiveness" 2/

58. At its 11th meeting, on 1 March 1996, the Working Group considered the above-mentioned proposal submitted by Cuba at the 1995 session of the Special Committee. Referring to the proposal, the sponsor delegation pointed out that the document contained concrete ideas and proposals that the Cuban delegation had been presenting in different forums of the Organization, such as the Security Council, the General Assembly and its Sixth Committee as well as in the Special Committee on the Charter.

59. The Cuban delegation stated that it intended to present at a later session of the Special Committee a newly revised version of the working paper, which would take into account new elements arising from the negotiations currently going on in the various working groups on the restructuring of the Organization and, in particular, the Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council. The delegation felt that the negotiation process going on in that working group should be taken into account by the Special Committee in order to put emphasis on the proposals tending to strengthen the role of the Organization, to revitalize the competence of the General Assembly as a universally representative organ and to enhance the transparency of the working methods of the Security Council.

60. The strengthening of the role of the Organization, both in the maintenance of international peace and security and in the promotion of the fundamental objective of economic and social development, had to be logically dependent on the participation, on an equal footing, of all Member States which, whether big or small, were all equally sovereign and equally concerned with the destiny of the Organization.

IV. PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES

61. Observations relating to the question concerning the peaceful settlement of disputes between States were made in plenary meetings of the Special Committee. Furthermore, in accordance with the decision taken by the Special Committee at its 209th meeting pursuant to paragraph 4 (c) of General Assembly resolution 50/52, this question was also considered by the Working Group at its 3rd and 5th to 7th meetings, from 23 to 27 February 1996.

Consideration of the proposal submitted by Sierra Leone at the 1995 session of the Special Committee 6/ under the title "Establishment of a dispute settlement service offering or responding with its services early in disputes"

62. In the course of the plenary meetings, the view was expressed that the proposed service or a variation thereof could undoubtedly contribute to the prevention and settlement of disputes and would provide the United Nations with an appropriate mechanism through which States parties to a dispute could resort to the means of settlement set forth in Article 33, paragraph 1, of the Charter.

63. On the other hand, there was also the view that an offer of services to the parties entailed a value judgement as to the existence of a dispute or a potential dispute, a determination which could contribute to the creation of an adversarial atmosphere. It was considered doubtful that such an offer would have any impact in the absence of political will for the peaceful settlement of a dispute. It was furthermore observed that the desired result was more likely to be achieved if the Security Council, under Article 33, paragraph 2, of the Charter, called on the parties to settle their dispute by peaceful means. The flexibility necessary for the resolution of disputes would not be preserved by the establishment of a formal mechanism. Doubts were also expressed as to the usefulness of elaborating new texts in an area already covered by the relevant provisions of the Charter of the United Nations, and which was the subject of numerous international legal instruments. The view was further expressed that the objective of the proposal might be secured by a simpler and less bureaucratic means.

64. The point was made that the proposal needed careful examination in order to assess its practical, financial and administrative implications. Concern was expressed, in particular, regarding the establishment of a new bureaucracy at a time when the trend was to reduce existing bureaucracies.

65. In the course of the discussion of the proposal by the Working Group, the sponsor referred to a document entitled "Annotation" (A/50/403), which was a detailed commentary and clarification of the proposal prepared in response to requests for clarification made at the last session of the Special Committee. 7/ He pointed out that the "Annotation" had been circulated during the fiftieth session of the General Assembly to facilitate consideration of the report of the Special Committee by the Sixth Committee. He further emphasized the fact that said "Annotation" should be borne in mind in the course of the Special Committee's consideration of the proposal. The text of the "Annotation" read as follows:

"Annotation

"It is the intent of the present annotation to provide a detailed commentary and clarification of the proposed Dispute Settlement Service offering or responding with its services early in disputes as proposed by Sierra Leone (A/48/398, annex). This effort is in response to the

generally welcomed approach encouraged by the Working Group of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization for the sponsor "to highlight those aspects of the proposal which made it different from other existing mechanisms in the field of the peaceful settlement of disputes". 8/ To succeed in this task, the sponsor first urges the reader not only to read the proposal carefully, but also to consider the details of the explanatory note (ibid., sect. III), all of which cannot be repeated here. The statement made by the sponsor in introducing document A/48/398 to the Special Committee on 23 March 1994 and a schematic diagram of the operational structure of the proposal to enhance clarity, are attached to the present annotation (appendices I and II, respectively).

"The Service is based on the peacemaking provisions made by the Charter of the United Nations, primarily in Article 33, paragraph 1. The proposal is actually a challenge to the lack of a permanent subsidiary mechanism to take advantage of the options provided for in Article 33. Diplomatic procedures are indeed available for using the options, but a structured, self-triggering entity is lacking to carry them out. The Service is a structure that gives the disputing parties and the 'settlors' a timely opportunity to choose the appropriate options for the particular dispute at hand. Their initial unregulated closed-door discussions will determine whether the future path will involve negotiation, mediation, conciliation, fact-finding, good offices or a combination of one or more of them in any desired sequence for the given situation. The result could even influence a move towards arbitration or judicial settlement. Thus, the question of duplication of procedures, as being a concern to some delegations, becomes irrelevant since the structured process itself uniquely provides a flexible use of any one or more of the peacemaking options encompassed in Article 33.

"During the general debate of the Working Group, at least one delegation expressed doubts on the extent to which the Board of Administrators would assist the Secretary-General in this area. Help for the Secretary-General is definitely positive since it gives him an additional flexible alternative for his own use in dealing with disputing parties without hindering the totally independent procedures he is now using or can use (ibid., sect. II, para. 20).

"The Board of Administrators, one from each of the five regions, represents a body that can have roots in the regions of the United Nations system with possible developing substructures of its own, appropriate to a specific region, and where early warning possibilities can emerge concerning sensitive dispute situations. Such a relation, coupled with the availability of settlors from the Roster having particular expertise in the basic problems of an area, can contribute to the growing interest and emphasis on regional approaches within the Organization. This relationship can only be advantageous for the Secretary-General and the main organs. The five Administrators are elected by the Sixth Committee and confirmed by the General Assembly and can be re-elected for a second three-year term (sect. II, para. 1). Any concern about the voting procedure should be allayed by anticipating the use of regional caucuses for nominating the candidates prior to the election. The usual practice then would be to adopt the nominations as the election result without a vote. Although not stated in paragraph 3 of section II, the usual United Nations practice, as for an administrative bureau choosing its own chairman on a rotating regional basis, would be implemented. The proposal indicates that 'the

Board of Administrators shall make an annual report to the General Assembly on activities of the Service' (sect. II, para. 19). The sponsor recommends that this statement should be amended to add:

> "'Beyond a minimum recording of the Service's settlement successes or failures, the annual report shall be based only on information from the settlor or settlors as released by the parties to the disputes.'

The administrative functions of the Board in New York are referred to in section II, paragraphs 1 to 5, 12, 13 and 18 to 21, and section III (c) to (f) and (j).

"The Secretary-General or his representative is also involved as an ex officio member of the Board of Administrators before or after the Service has been activated and where his advice and opinions can be given (sect. II, para. 2). He and any of the Administrators can be requested to serve as a settlor later in a dispute (sect. II, para. 15, and sect. III (e)). Actually, the aid of the Service to the Organization as a whole could reduce undue pressure on the Secretary-General. In any case, it should be noted that the structure of the Service was not designed to be controlled by the Secretary-General. His personal relationship to the Service is given in section II, paragraphs 2, 8, 13 and 15, section III (a) and (e), and note c/.

"For the purpose of early warning of new and potential disputes, the Administrators would be encouraged to draw upon the resources of their respective regions and the Secretariat (sect. II, para. 21, and sect. III (d)). Close relations of the Administrators with their regions would aid this effort. The relations of the Security Council to the Secretary-General, the latter to the Service procedures and the Administrators to the Member States, particularly in New York, would encourage the cause of early warning. Other acceptable sources may be developed. Also, since the proposal makes for a desirable General Assembly influence in the peaceful settlement of disputes, thus contributing to the maintenance of international peace and security (sect. III (b)), new opportunities for early warning may arise, as depicted in the schematic diagram (appendix II).

"The sponsor makes no apology for the schematic nature of the proposal involving its potential activities. It is the schematic procedural options in the hands of its participants that give the Service its overall flexibility. The services can be achieved without disturbing the constitutional balance of the main organs of the Organization and it is recognized that they cannot be invoked to prevent the Security Council from exercising its powers under the Charter (sect. II, paras. 6-8, 12 and 13, and sect. III (a) and (b)).

"As for the relation of the Security Council to the Service, the Council has the option of mandating the use of the Service for its own purpose without being subjected to any limitations (sect. II, para. 8). It also can make its views clear to the Secretary-General, the ex officio member of the Board of Administrators, on matters concerning the Service's offering or responding with its services. The Board of Administrators may activate the Service directly by a simple majority subject to specific limitations unless opposed by the Administrator from the region in which the disputing parties are involved (sect. II, paras. 5-7). Also, no offer

of services is made if an effort for settlement by the Security Council or a regional body has been established for the purpose, unless the parties request aid from or transfer responsibility to the Service (sect. II, para. 11). The offering of services by the Service may be prevented by the Security Council under Article 27, paragraph 2, of the Charter, which indicates that the offer can be stopped by a vote of any nine or more members of the Security Council (sect. II, para. 7). A veto is not involved since the matter is a procedural one. The vote by the Security Council should be made within a reasonable period of time, although this has not been indicated. The occurrence of such a disagreement would be most unusual, if not moot, in view of the fluidity of the relation between the Security Council, the Secretary-General and the Board of Administrators under the conditions of paragraph 2 of section II of the proposal, which states:

> "'The Secretary-General, or his representative, will place his expertise at the disposal of the Board and, in order to avoid conflict, will keep the Board informed of the existence of such matters as referred to in Article 12, paragraph 2, of the Charter of the United Nations.'

"As for the requested explanations concerning the financial parameters of the Service, a comparison with funding required for peace-keeping or Chapter VII peace-enforcement obligations should make the budget for the Service appear a minor sum. Firstly, after accepting the services, the parties shall bear all costs of subsequent dispute-settlement sessions (sect. II, para. 17). Secondly, it has been suggested that parties experiencing financial difficulties should have recourse to the Secretary-General's fund for parties seeking similar aid to appear before the International Court of Justice (note c/). Thirdly, the Administrators in New York would not be remunerated, following the precedent of past important assignments and appointments of individual delegates with high leadership and administrative capabilities. Fourthly, the Service does not require the creation of any new organ or Secretariat unit. It intends to use the Office of Legal Affairs as the pool for secretarial services and as the repository of the Roster of Settlors and for the wide dissemination of it (note b/, sect. II, paras. 4, 16 and 22, and sect. III (i)). The Office would service the Sixth Committee elections of the Administrators, as is done with the Bureau of the Charter Committee. Also, it could provide for the possible assignment of the Under-Secretary-General/Legal Counsel on occasion as the representative of the Secretary-General on the Board of Administrators, as determined by the Secretary-General.

"In the definition of a settlor, as defined in the Service, as given in footnote a/ to the introduction, the term 'good officer' is actually not mentioned in the specific dispute settlement options referred to in Article 33, paragraph 1, of the Charter, but it can be included along with the given options in view of the Article's final phrase, 'or other peaceful means of their own choice'. The good officer is a logical counterpart to the settlor grouping.

"The proposal indicates that the settlors should be qualified individuals from as varied a field as possible (sect. II, para. 15, and sect. III (g)). By the potential choice of three settlors from each of the Member States, these settlors could include the willing service of past heads of State and foreign ministers, former presidents of the General Assembly, former high-ranking judges of national and international tribunals, incumbent and former members of the International Law Commission

and a multitude of other present and former related officials with expertise in activities of a peacemaking nature. These settlors need not only represent recognized legal experts in international military/peace/ security issues, but also those having expertise in economic, social and cultural relations where disputes are most often the root cause of all disastrous conflicts. Available settlors from the Roster may be Nobel laureates involved in these fields. Even the concept of maintaining international peace and security could be expanded to a recognition of its economic and social origins requiring preventive attention through early warning.

"The proposal as well as the present annotation have referred to the flexibility with which the Service will function in relation to the United Nations organs and the disputing parties. The Service devolves from the General Assembly and is thus subsidiary to that body, to which it reports annually as described above. However, in effect, after the parties and the settlors are behind closed doors to begin their discussions, they become subsidiary to themselves unless, as an exception, either the Security Council, the General Assembly or the Secretary-General has made specific requests when applying the Service to their own purpose. Otherwise, the parties and settlors convene without any predetermined regulations as to their future course of action. This condition can create an atmosphere similar to the constructive situation that initiated the talks between unlikely contacts in a London hotel and then with others in a Norwegian countryside that led to a major Middle East agreement. The original encounter was made at random. The only difference with such an environment of individuals created by the Service is that the process is initiated by a permanent mechanism of the United Nations system and any successful agreement reached by the parties can be recorded as such by the United Nations. As noted in the introduction, starting the process itself would be considered a major accomplishment.

"On 31 January 1992, the Security Council, at the level of Heads of State and Government, invited the Secretary-General to prepare an analysis and recommendations on strengthening preventive diplomacy, peacemaking and peace-keeping. The concept of the Sierra Leone proposal is directed at the first two categories. The Secretary-General responded with his report 'An Agenda for Peace' (A/47/277-S/24111) and under that title the response of Governments resulted in two General Assembly resolutions, the most recent of which was resolution 47/120 B of 20 September 1993, in which the Assembly decided to consider the use of existing or new machinery, including subsidiary organs under Article 22 of the Charter, to facilitate consideration of any situation coming within the scope of Article 14 of the Charter, with a view to recommending measures for the peaceful adjustment of such a situation. The proposed dispute settlement service reflects and shares the purpose of that decision for consideration. Resolution 47/120 B provides an additional impetus and an optional mechanism to consider the establishment of the service.

"When analysing the pertinent preambular and operative paragraphs of the General Assembly resolutions responding to the Secretary-General's 'An Agenda for Peace', it can be deemed that the Sierra Leone proposal is made at the right time to implement the very essence of their provisions directed at preventive diplomacy and peacemaking. Also, it should be noted that in the Secretary-General's Supplement to 'An Agenda for Peace' (A/50/60-S/1995/1), under 'Instruments for peace and security', preventive diplomacy and peacemaking are considered first among six given instruments.

"It is ludicrous that the one Organization charged with the maintenance of international peace and security has no permanent subsidiary unit to cope with the peaceful settlement of disputes. The Dispute

Settlement Service can be that body. As already stated, the foundation of the Service is based on the peacemaking provisions of Chapter VI of the Charter and is not to be confused with peace-enforcement operations, which relate to the collective security aspects of Chapter VII (sect. III (p)). Those who drafted the Charter provided intended subsidiary aid to the Security Council in Chapter VII in the form of the existing but non-used Military Staff Committee and armed forces that were to be contributed by the Member States. However, the Chapter VI provisions do not include specific potential subsidiary bodies for its operations. This situation provides an unusual opportunity and challenge in the pursuit of peace as a similar envisioning of purpose can be applied to Chapter VI. If the Board of Administrators of the Service can be portrayed as kind of a 'staff committee' and the Roster of Settlors as its 'forces', the intention in establishing the Dispute Settlement Service may be more easily understood, especially considering its relatively minuscule cost as compared with Chapter VII operations. If the Service is established, one certainty can be expressed, that its efforts can contribute to a more rational and humane environment than that which exists today.

"As stated, this proposal definitely does not concern peace enforcement, a military option from Chapter VII for halting aggression, which is currently being emphasized as the mechanism for 'making the peace' and calling it 'peacemaking'. Such a connotation upsets traditional nomenclature and reverses the role of a true peacemaker as visualized by the present proposal. Section III (p) of the explanatory note makes the distinction absolutely clear.

"APPENDIX I

"Statement introducing document A/48/398 on the establishment of a Dispute Settlement Service made on 23 March 1994 by Thomason D. Lawson to the Special Committee

"I appreciate the opportunity given my delegation to introduce the proposal contained in document A/48/398 relating to the establishment of a Dispute Settlement Service that will be available to parties in dispute during the early stages of their dispute.

"This effort by my delegation is the outcome of a long and hard look at how best the provisions of the Charter, under Chapter VI, relating to the peaceful settlement of disputes can be used as a framework to enable the United Nations to be more actively involved in conflict avoidance than is now the case.

"When the Charter was framed almost 50 years ago, the underlying theme and the major preoccupation was the pursuit of policies that would secure the foundations of a newly won peace and assure States that there would be less likelihood of a re-emergence of those conditions which had led to a global conflagration. Containment became the watchword during those years.

"Today, an entirely different world picture confronts us: one in which a growing convergence of interests is becoming manifest, one in which the challenge for the international community has become not the resort to the traditional and costly mechanisms of conflict resolution, which our resources cannot continue to support indefinitely, but one that looks towards utilizing the vast potential of this Organization in a different approach that relies on the productivity of diplomacy in exhausting all possible avenues to settle disputes peacefully.

"The proposal proper, comprising 22 paragraphs and to which are appended an introduction and an explanatory note for purposes of

elaborating the concept, envisages a mechanism that will be at the disposal of the Organization and which, in addition to responding to requests from parties in dispute for making available its services in resolving their disputes, will enter the present uncharted waters of offering such services to parties in dispute to resolve their dispute either through good offices, conciliation or mediation.

"We stand at a point in time when the practicality of the second characteristic of the mechanism, that is, offering unsolicited services for dispute settlement, will increasingly become a modus operandi of this Organization's efforts under Chapter VI of the Charter. Paragraph 2 of Article 33 of the Charter anticipates this scenario, whereby parties will be encouraged, without prejudice to State sovereignty, to avail themselves of options for resolving their dispute peacefully.

"Further, the Dispute Settlement Service embraces a two-part structure comprising Administrators who will consider requests for the extension of settlement services and a Roster that will draw upon a pool of potential settlors whose expertise in dispute settlement will afford the parties a wide choice of personalities who will enjoy their trust and confidence, thus facilitating a settlement utilizing the means of their own choice.

"The proposal recognizes the increasing role that the Secretary-General is being called upon to play in dispute settlement and the inherent capacity of the General Assembly for the peaceful adjustment of any situation under Article 14 of the Charter.

"My delegation has striven to strike a balance between the functions and responsibilities of the Organization's principal organs in a manner that does not compromise their operation, yet offers a means for this Organization to further its purposes.

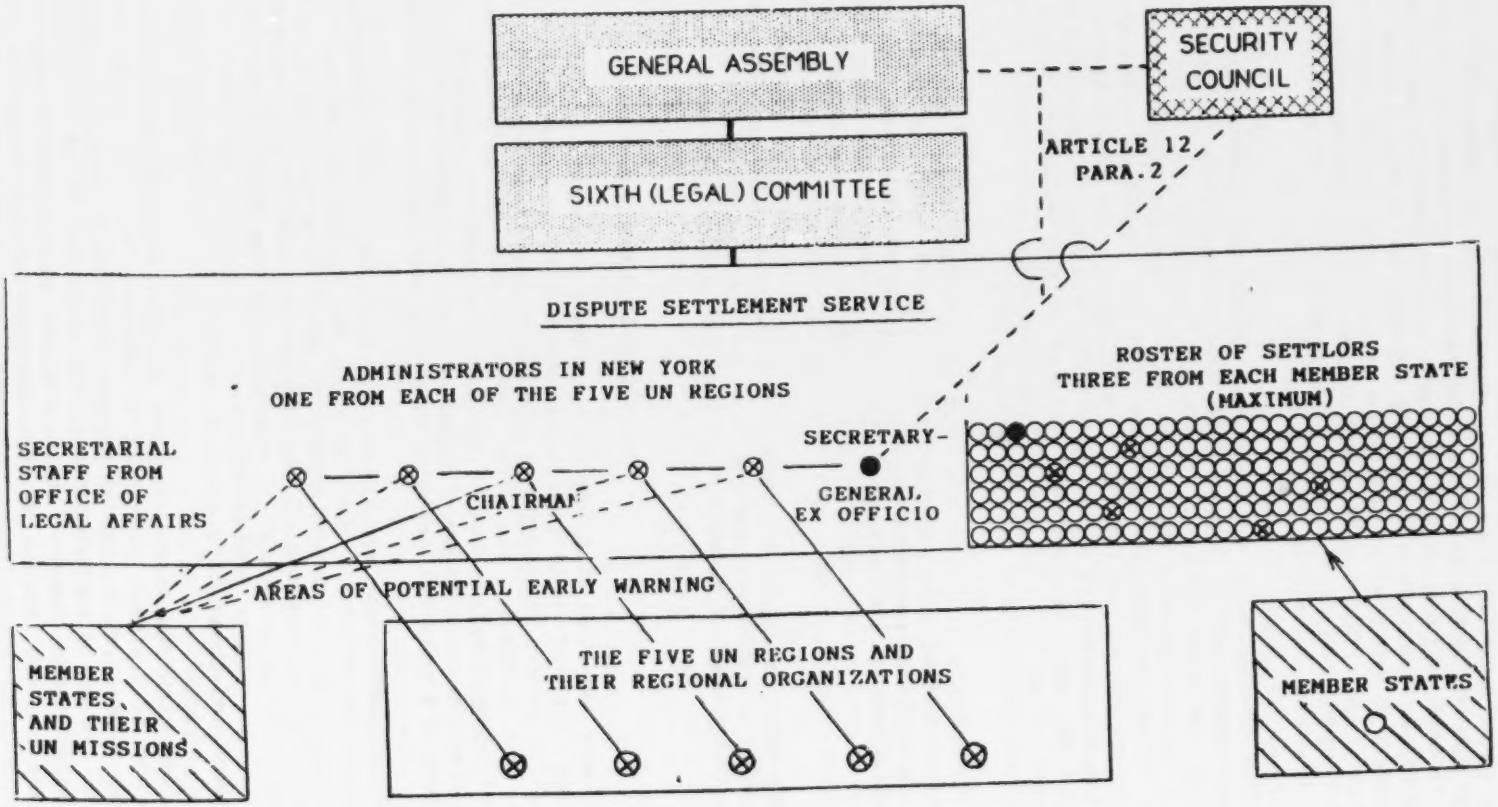
"As I remarked earlier, this approach is a novel one; some may say it is overambitious and raises questions of concern to Member States that will need to be resolved first. To this we say the following: the provisions of the Charter have to be seen in a broad light, providing the foundations on which we, as the succeeding generations, have to build to secure our own future. We cannot as an Organization afford to continue the artificial dichotomy between the form of dispute settlement and the breadth of the function to give effect to that form. Secondly, as delegations are aware, paragraph 2 of part I of General Assembly resolution 47/120 B, on 'An Agenda for Peace', to which all Member States subscribed, foresees the enhancement of those functions covered by Article 14 of the Charter.

"The proposal is not a quantum leap; it does not seek to rewrite the parameters of the relations between States and this Organization. Rather, it is a small step that attempts to make the most of the evolving world situation and the emerging mutuality or interests arising from our common ascription to the basic principles on which this Organization was founded. It will benefit from the detailed consideration of the Committee, which shortage of time may unfortunately not allow. However, it is my delegation's hope that the comments of members of the Committee will be forthcoming, if only in a preliminary fashion. This will form the basis for a more substantive discussion at our next session.

"Once again, I thank you for the opportunity to introduce this proposal.

APPENDIX II

ESTABLISHMENT OF A DISPUTE SETTLEMENT SERVICE OFFERING OR RESPONDING WITH ITS SERVICES EARLY IN DISPUTES: PROPOSAL SUBMITTED BY SIERRA LEONE (A/40/398)



66. The sponsor observed that the cost of establishing the proposed service was very low for the following reasons: the parties would bear all costs involved after their acceptance of the mechanism; the Secretary-General's Trust Fund to assist States in the settlement of disputes through the International Court of Justice would be put at the disposal of parties; the Administrators in New York would not be remunerated; and the Service would not require the creation of any new organ or secretariat unit as it would rely on the services of the Office of Legal Affairs. The sum in question was rather minimal compared to the cost of peace-keeping and peace-enforcement operations. Moreover, successful use of the Service would reduce the need for such operations.

67. The sponsor also observed that, while the function of the Board of Administrators would be primarily to offer services to the parties or respond to requests for such services, it was the settlors chosen by the parties who would constitute the primary mechanism for the dispute settlement process. That mechanism would leave the parties with the choice of using one or more of the means referred to in Article 33, paragraph 1, of the Charter. He pointed out that the Roster of Settlors would cover a large variety of fields of expertise and that the self-triggering character of the mechanism would remedy the deficiencies of the register of experts established under General Assembly resolution 2329 (XXII) of 18 December 1967.

68. The sponsor stressed the fact that the proposed service would provide the Secretary-General with another option for carrying out preventive diplomacy. He noted that the Secretary-General, or his representative, would sit on the Board of Administrators ex officio. This would also ensure that the constitutional balance of the main organs of the United Nations was maintained. Moreover, the Secretary-General could serve as a settlor if so desired by the parties.

69. The sponsor suggested that Member States could provide appropriate training in preventive diplomacy and peaceful settlement of disputes to the settlors nominated by them in order to enhance the effectiveness of the Service.

1. General comments

70. It was observed that any effort aimed at preventing disputes and at assisting in their early resolution was worthy of consideration. It was stressed, however, that any new procedure should be based on the consent of the parties to a dispute. The point was made that the proposed mechanism had the merit of being flexible and of promoting a regional approach to the resolution of disputes, as well as providing for a self-triggering mechanism. It was also noted that the proposal assigned an important role to the Secretary-General.

71. Clarification was sought as to the nature of the functions to be performed by the Service and as to what it would add to the panoply of means available to States for the peaceful settlement of their disputes. In this connection, it was felt that the meaning of the expression "offering or responding with its services early in disputes" in the title of the proposal was unclear. In response, the sponsor emphasized that the proposal was aimed at the prevention of disputes and their settlement at a very early stage.

72. It was also questioned whether the bureaucracy envisaged was necessary and whether the same effect might not be achieved with the establishment by the Secretary-General of a list of persons available to assist States in resolving disputes. It was also pointed out that previous lists or rosters of persons set up by the Secretary-General at the request of the General Assembly or of provisions of multilateral conventions with respect to which the Secretary-General performed depository functions, in order to assist States in settling their disputes, had never been actually utilized. Mention was made in particular of the Panel for Inquiry and Conciliation provided for in General

Assembly resolution 268 D (III) of 28 April 1949, the Register of Experts in legal and other fields contemplated in General Assembly resolution 2329 (XXII) of 18 December 1967 and the list of conciliators nominated for the purpose of constituting a conciliation commission in accordance with paragraphs 1 and 2 of the annex to the 1969 Vienna Convention on the Law of Treaties. 9/ It was consequently suggested that more was required than the mere establishment by the Secretary-General of a list. Such list should be part of a procedure to be actively employed by the Secretary-General as an additional dispute avoidance or dispute settlement tool.

73. The usefulness of the Board of Administrators was questioned, as was the appropriateness of the term "Administrators". In response, the sponsor pointed out that the Board of Administrators performed advisory and liaison functions.

74. While it was noted that the proposed service was meant to operate on a low budget, there were also reservations with regard to the costs involved. Clarification was further sought on the use by the parties of the Secretary-General's Trust Fund to assist States in the settlement of disputes through the International Court of Justice.

2. Consideration of section I: Introduction

75. Concerning the first paragraph of the introduction, clarification was sought as to the meaning of the expression "subject to restraint by the Security Council". As to the second paragraph, a question was raised as to whether the offer of services had to be made jointly by the five Administrators or by any one of them. It was suggested that the exact nature of such services should be specified and that the principle of the free choice of means should be respected. Clarification was sought as to the meaning of the expression "more favourable time" in the third paragraph, and of the term "settlor" in the fourth paragraph. With respect to the latter, the sponsor explained that a settlor was a person who induced a settlement between parties to a dispute through the use of one or more of the means set forth in Article 33, paragraph 1, of the Charter. The view was expressed in this connection that the larger the number of settlors, the less likely it was that the dispute would be resolved.

3. Consideration of section II: Proposal

76. With regard to paragraph 1, clarification was sought as to the precise nature of the functions of the Administrators and of the alternates. A question was raised as to why such persons should be elected in a two-step procedure. It was observed that the prerogatives of the Security Council in the area of the peaceful settlement of disputes should be respected. Divergent views were expressed as to whether the nature of the disputes to be settled through the proposed service had to be clearly defined. In this connection, the sponsor stated that the Service was intended to be utilized with regard to any dispute which the parties agreed to resolve in this manner.

77. Concerning paragraph 2, a question was raised as to what the precise role of the Secretary-General would be with regard to the Board of Administrators. The reference to Article 12, paragraph 2, of the Charter was also questioned.

78. As to paragraph 5, doubts were raised regarding the activation of the Service by a simple majority of the Board of Administrators and it was asked on what criteria such persons would base their decision. Clarification was sought regarding the extent to which Administrators would act as representatives of their respective regions. It was questioned why the Administrator from the same region as the parties to the dispute could oppose the activation of the Service, particularly if such service was acceptable to the parties, and whether this

rule would also apply if such Administrator was a national of one of the parties. The question was further raised as to what rules would apply if the parties to a dispute were in different regions.

79. Regarding paragraph 6, it was observed that it was difficult to envisage how the Service could prevent the Security Council from exercising its powers under the Charter.

80. The term "prevented" in paragraph 7 was considered unclear. It was suggested that paragraphs 6 and 7 be merged so that paragraph 7 could not be misinterpreted in the context of paragraph 10 as meaning that the Security Council could prevent parties from resorting to the means of settlement of their own choice with respect to disputes other than those endangering international peace and security.

81. Concerning paragraph 8, the question was raised as to whether it was constitutional for the Security Council to activate a body established by the General Assembly. It was further questioned whether such procedure was in conformity with the principle of the free choice of means, since, although the parties - as envisaged in paragraph 9 - had the right to reject the offer of services activated by the Council, it would be difficult for them to do so in practice.

82. The expression "more favourable time" in paragraph 9 was considered unclear.

83. With respect to paragraph 10, the view was expressed that the activation of the Service by the parties to a dispute was a fundamental point and that the paragraph should therefore be placed at the beginning of the text. Clarification was sought as to the nature of the tasks that would thus be undertaken by the Service.

84. With regard to paragraph 11, the point was made that Administrators might not be aware of ongoing efforts aimed at the resolution of a dispute. It was felt that overlap of dispute settlement procedures should be avoided. There was, however, the view that services should be offered to the parties if needed for the implementation of a decision previously reached through another settlement procedure.

85. Concerning paragraph 12, clarification was sought as to whether the term "confidentiality" applied to the content of the meeting between the parties and Administrators or to the very fact that the meeting had taken place. Doubts were raised regarding proposed exceptions to confidentiality.

86. As to paragraph 13, reservations were expressed regarding the possibility that a party could abandon the process, an event which would constitute a violation of the initial agreement between the parties. The point was also made that there was a need to distinguish between those disputes that endangered international peace and security and those which did not, since the Security Council could only play a role in respect of the former.

87. Paragraph 14, it was observed, was couched in terms of an obligation, which was considered inappropriate. It was further emphasized that the parties should also agree on the functions of the settlors.

88. In connection with paragraph 16, the point was made that the Register of Experts established under General Assembly resolution 2329 (XXII) had never been used.

89. Regarding paragraph 17, it was suggested that the word "sessions" be replaced by "activities".

90. As far as paragraph 18 is concerned, the question was raised as to why settlors had the right to participate in decisions on operating procedures.

91. As for paragraph 19, it was asked how the confidential character of the procedure would be preserved if the Board of Administrators submitted an annual report to the General Assembly. Clarification was sought as to the content of such reports. In response, the sponsor explained that the report would contain information provided by the settlors with the agreement of the parties.

92. With respect to paragraph 20, the point was made that the Secretary-General could also undertake mediation. The second sentence was deemed superfluous.

93. Paragraph 21 was considered too ambitious, as it was unlikely that the Secretariat would have the means to undertake the tasks envisaged therein. It was also felt that Administrators would not be best suited to undertake early warning activities as they merely performed technical functions.

4. Consideration of section III: Explanatory note

94. Concerning subparagraph (a), the relation of the Service to the functions of the Security Council and the Secretary-General in the maintenance of international peace and security was questioned. In connection with subparagraph (b), the point was made that "quiet diplomacy" was sometimes preferable to the involvement of the General Assembly in a dispute. Clarification was sought as to the self-triggering character of the Service mentioned in subparagraph (d). In response, the sponsor pointed out that, once the parties had accepted the Service, they would proceed to selecting the settlors and deciding on their functions. Regarding subparagraph (f), it was felt that the procedure could be simplified by involving settlors in all stages of the process, thereby rendering the Board of Administrators unnecessary. The meaning of the expression "binding settlement" in subparagraph (m) was considered unclear.

95. In the light of the discussion, one representative suggested an amendment of the proposal which consisted in changing the role and title of the Administrators. The mechanism he thus proposed would also consist of two stages, as was the case with the proposal by Sierra Leone, but it would be substantially different. He suggested that the Administrators be replaced with a body of officials entrusted with the task of assisting the parties to a dispute in finding mechanisms for resolving such dispute. These persons, who, unlike the Administrators, would be experts in all aspects of dispute settlement, would present to the parties the array of available means and would attempt, together with the parties, to determine the method best suited to the resolution of the particular dispute, taking into account its characteristics as well as the positions and attitudes of the parties. Once this initial "pre-settlement" stage had been successfully completed, in most cases by the conclusion of an agreement between the parties setting forth the settlement method of their choice, the parties, if they so wished, would select from the Roster of Settlors the persons who would implement that procedure.

96. The delegation of Sierra Leone expressed its intention to prepare, in cooperation with other interested delegations and in particular that of Guatemala, a revised version of the proposal of Sierra Leone that would take account of the comments made in the Committee.

V. CONSIDERATION OF PROPOSALS CONCERNING THE TRUSTEESHIP COUNCIL

97. Observations relating to the proposals concerning the Trusteeship Council were made in plenary meetings of the Special Committee. Furthermore, in accordance with the decision taken by the Special Committee at its 209th meeting pursuant to paragraph 4 (e) of General Assembly resolution 50/52, these proposals were also considered by the Working Group at its 8th meeting, on 28 February 1996.

98. In the context of general statements made in plenary meetings it was observed that the General Assembly, in its resolution 50/55 of 11 December 1995, had requested the Secretary-General to submit to it a report before the end of the fiftieth session containing comments made on the subject by Member States as of 31 May 1996. Discussion of the question at the current session of the Special Committee could thus only be of a preliminary nature.

99. Concerning the proposal that the Trusteeship Council become the trustee of the common heritage of mankind, the view was expressed that other international bodies were better suited to carrying out such tasks.

100. While the view was expressed that the Trusteeship Council, having fulfilled its mandate, should be abolished, there was also the view that there existed neither legal nor political nor practical reasons for amending in any respect the provisions of the Charter, including those regarding that organ.

101. In the Working Group some delegations reiterated that it was premature at the current stage to consider proposals concerning the Trusteeship Council. Although the General Assembly in paragraph 4 (e) of resolution 50/52 had requested the Special Committee to consider such proposals, in the same resolution, in the fourth preambular paragraph, the Assembly had referred to the provisions of its resolution 50/55 on the "Review of the role of the Trusteeship Council", which was to be borne in mind in that connection. There thus existed a linkage between the two resolutions. In drafting resolution 50/55, Member States had decided that written comments on the future of the Trusteeship Council could be submitted until 31 May 1996. The Special Committee should therefore avoid engaging in a detailed discussion on the matter before the written views of the Governments were received. It was also pointed out that, as noted in resolution 50/55, some aspects of the question also were linked to the overall restructuring process of the Organization, which fell within the mandate of the High-level Working Group on the strengthening of the United Nations system.

102. Some other delegations felt that, while it might be premature to take decisions on proposals altering the role of the Trusteeship Council, this did not preclude the Special Committee from addressing the limited question of abolishing the Council. Reference was made to the report of the Secretary-General on the work of the Organization submitted to the General Assembly at its forty-ninth session, 10/ in which the Secretary-General had recommended that the General Assembly proceed with steps to eliminate the Trusteeship Council following the procedures outlined in Article 108 of the Charter. The view was also expressed that, in line with this recommendation and with the spirit of reform currently permeating the work of the Organization, it would be appropriate and timely for the Special Committee to begin that process in the manner in which the General Assembly had called for the deletion of the "enemy States" clauses in the Charter. In these delegations' view, the Council had served its purpose well, had already finished its valuable work and had even amended its rules of procedure to discontinue regular meetings.

103. Other delegations did not believe that it was necessary to abolish the Trusteeship Council. It was noted that the Council currently employed no staff,

held no regular meetings and did not use up any resources of the Organization. Furthermore, while it was true that, in principle, the Council had successfully fulfilled its mandate, the possibility that its services might be called upon again in the future could not be entirely ruled out. Moreover, any amendment to the Charter was a very complex exercise and should not be undertaken for the mere intellectual satisfaction of removing texts pertaining to a non-working organ. Such an amendment might carry profound political and legal ramifications and might endanger the delicate balance between the various organs of the Organization.

104. Some speakers referred to procedural and substantive aspects of the proposal of Malta, 11/ in which it was suggested that the Trusteeship Council should act as a guardian and trustee of the global and the common concerns of mankind for the preservation of the environment.

105. It was noted in this connection that, constitutionally, it would not be possible for an old organ with a new mandate to merely step into the shoes of the Trusteeship Council with minor amendments to the Charter. There was a plethora of references to the Trusteeship Council and trusteeship system throughout the Charter: e.g., Articles 7(1), 16, 18(2), 73(e), 75 to 85 (Chapter XII), 86 to 91 (Chapter XIII), 98 and 101(2). It was therefore apparent that, procedurally, significant amendments to the Charter would be required.

106. The proposal referred to in paragraph 104 above was also commented upon on substantive grounds. The view was expressed that the idea according to which the Trusteeship Council would act as a guardian and trustee of the global and common concerns of mankind had many merits and deserved the most attentive consideration. The view was also expressed that the Maltese proposal concerned important questions regarding the institutional ability of the United Nations to deal with environmental issues in areas beyond the national jurisdiction of States. On the other hand, the view was expressed that a new body such as the one proposed would duplicate or hamper the effectiveness of the work on environmental protection carried out by other bodies in the United Nations system, such as the United Nations Environment Programme, or the institutions or bodies charged with the implementation of environmental provisions under the 1982 United Nations Convention on the Law of the Sea. The view was further expressed that the Trusteeship Council had not yet exhausted the possibilities established under Article 77 of the Charter. It was pointed out that to remove the provisions concerning the Trusteeship Council from the Charter would be counter-productive and likely to lead the United Nations and its organs into a constitutional crisis, which, added to the financial crisis, would paralyse the Organization.

VI. STATUS OF THE REPERTORY OF PRACTICE OF UNITED NATIONS ORGANS AND OF THE REPERTOIRE OF THE PRACTICE OF THE SECURITY COUNCIL

107. Pursuant to paragraph 4 (f) of General Assembly resolution 50/52, the Special Committee considered the question of the status of the Repertory of Practice of United Nations Organs and of the Repertoire of the Practice of the Security Council at its 211th, 212th and 214th meetings, on 26, 27 and 29 February 1996.

108. A note by the Secretariat on the subject (A/AC.182/L.87) was introduced by the Legal Counsel, Mr. Hans Corell, at the 212th meeting. In his statement, the Legal Counsel summarized the contents of the main sections of the note as regards the background of both publications, the difficulties encountered in their production and the possible courses of action for their updating.

109. As regards the Repertory of Practice of United Nations Organs, he explained, inter alia, that the various Secretariat units responsible for the preparation of draft studies had found it increasingly difficult to assign staff members to a task which could only be carried out with resources available after more urgent tasks had been accomplished and which had, with the passage of time, reached staggering proportions. The problem was compounded by the increase in the workload of those units as well as staff reductions and other measures related to the financial situation of the Organization. Furthermore, the mammoth task which the Office of Legal Affairs would be confronted with in the discharge of its review and coordinating responsibilities could not conceivably be performed with existing resources. Moreover, the production of the Repertory suffered from two main defects: Firstly, the entire operation was carried out with resources only available after more urgent tasks had been accomplished; this situation was the result not of a deliberate decision but of necessity, inasmuch as the demands on the Secretariat units concerned were for the most part of a current nature and could not be subordinated to work on the Repertory. Secondly, responsibility for the preparation of the initial studies rested with a variety of units over which the Office of Legal Affairs had no administrative control.

110. As to possible courses of action, he stated that the only reasonable approach which could be envisaged was to adjust the current arrangement so that the initial 135 studies on individual Charter provisions would continue to be prepared by the concerned Secretariat unit; within the Office of Legal Affairs, the task of preparing the 25 studies under the direct responsibility of the Office would be divided among the main units of the Office at Headquarters; and the preliminary review work would be conducted by a single division, the Director of which would act as Chairman of the Interdepartmental Review Committee and as Repertory Coordinator. Furthermore, since the production of the Repertory was of necessity a residual task, the elimination of the backlog starting with the year 1979 was not an attainable short-term or even medium-term objective. It would therefore seem advisable to actively resume work on the Repertory with the production of an unedited English version of a supplement covering recent years, for instance the period 1990-1996, on the understanding that outstanding volumes would be prepared at a later stage, depending on availability of resources.

111. He also drew attention to some remaining difficulties such as the possible additional resources that Conference Services would need for the editing, translation and printing of the supplement, the heavy burden that the concentration of the review work within a single division would place on that

division and the priority to be given to other urgent responsibilities in the current period of financial crisis and diminishing resources. He stressed that the only reliable way of securing a timely production of the Repertory was unquestionably to allocate additional resources for the purpose.

112. As regards the Repertoire of the Practice of the Security Council, he pointed out that the Department of Political Affairs, which was entrusted with its preparation, had found it increasingly difficult to keep the Repertoire current on account of the increase of the work of the Organization in the area of the maintenance of international peace and security, the attendant increase in the volume of material to be covered and reduced staffing resources.

113. As to possible courses of action to reduce the backlog, the Department of Political Affairs had proposed the publication of the supplements in parts instead of waiting for the whole project to be completed. The first parts to be published would be those summarizing the activities of the Security Council arranged in chronological order according to agenda item. These would later be followed by the parts presenting the material organized by Articles of the Charter and the provisional rules of procedure. In order to expedite the availability of the data, the next Supplement (No. 11), which was projected to cover a four-year period, might be split into two, covering the years 1989-1990 and 1991-1992. As the ground was laid for the work on that Supplement, consideration should be given to the fact that it would cover the period when the Security Council had resorted to various innovative practices in the conduct of its work. Thought might therefore be given to a new approach to the presentation of the material which would be acceptable to the Member States, conveniently adapted to their needs and, at the same time, manageable from the point of view of the Secretariat, as well as to a number of technical improvements for the production of the Repertoire.

114. Delegations expressed satisfaction at the comprehensiveness of the note prepared by the Secretariat and at the detailed analysis of the current status of both publications contained therein.

115. Some delegations strongly emphasized that the publication of both the Repertory and the Repertoire was a matter of utmost importance. It was pointed out that those publications contributed to a better knowledge and understanding of the Charter and were sources of reference for assessing the evolution of the practice of the Organization and, more generally, the evolution of international law. It was stressed that they were an essential tool not only for Member States and the Secretariat, but also for research institutions, universities and individual scholars.

116. It was further pointed out that publication of the Repertory and the Repertoire contributed to the transparency and accountability of United Nations organs and ensured the preservation of the institutional memory of the Organization.

117. Concern was therefore expressed regarding the significant backlog in the publication of both the Repertory and the Repertoire. It was further observed that that backlog had deprived Member States and the Secretariat of an instrument which would have been particularly useful in connection with the ongoing discussions of reform of the Organization.

118. Resumption of the publication of the Repertory and the Repertoire and elimination of the current backlog was considered to be crucial. It was

emphasized that the general rules applying to United Nations publications should be respected in this regard.

119. Note was taken of the problems faced by the Secretariat regarding the publication of the Repertory and the Repertoire. The view was therefore expressed that, at a time when the Organization was facing serious financial constraints, it might be difficult to eliminate the existing backlog. However, it was also strongly emphasized that ways should be explored to ensure the updating of the two publications. The following suggestions were made in this respect: the assignment of interns not only to the preparation of the Repertoire, as mentioned in the note by the Secretariat, but also to the preparation of the Repertory; redeployment of staff members relieved of previous assignments to work on these publications; soliciting from outside institutions human and financial resources for the preparation of those publications; the establishment of a system of coordination among the different parts of the Secretariat involved in the preparation of the Repertory, with a uniform methodology and database so that information could be processed as it was being produced; revision of the format of the publications; the use of new technology; the use of cross-references to avoid duplication between the two publications; and resort to assistance from the Department of Public Information for editing and printing. Divergent views were expressed regarding the Secretariat's proposal that work on the Repertory resume with the production of a supplement covering the period 1990-1996, on the understanding that outstanding volumes would be prepared at a later stage. While some delegations supported the proposal, others expressed some doubts concerning the resumption of work by the Secretariat on a supplement covering the period between 1990 and 1996. It was noted that it would be preferable to resume the work beginning with 1979. In support of that position, it was stated that the aforementioned proposal by the Secretariat would be counterproductive from a methodological and substantive point of view, because in a certain way it would diminish the importance and usefulness of the Repertory and would not facilitate a genuine understanding of the evolution and application of the Charter.

120. It was suggested that the Secretariat should prepare, for the attention of the General Assembly at its fifty-first session, a specific proposal aimed at the gradual publication of all the late volumes of the Repertory and the Repertoire, beginning with the most recent years.

121. At the 216th meeting of the Special Committee, the Chairman made a statement reporting to the Committee that, on 29 February, informal consultations had been held, in the presence of the Legal Counsel, on the question of the status of the Repertory of Practice of United Nations Organs and of the Repertoire of the Practice of the Security Council. Representatives emphasized the usefulness of the Repertory and the Repertoire and the need to eliminate the backlog in their publication. Suggestions to facilitate achievement of this goal included the following: redeployment of staff members relieved of previous assignments to work on these publications; recourse to interns; computerization and the creation of a data bank; soliciting from outside institutions human and financial resources for the preparation of these publications; revision of the format of the publication and elimination of duplication between the two publications.

122. Some delegations suggested that it should be possible to achieve this goal within existing resources; others suggested that the Secretary-General could perhaps request additional resources from the General Assembly, if needed.

123. Some supported the Secretariat's proposal that work on the Repertory should resume with the production of a supplement covering the period 1990-1996, while others expressed concern that leaving a gap would be totally unsatisfactory.

124. In response, the Legal Counsel emphasized the problems faced by the Secretariat in the production of these publications, particularly those of human and financial resources, which had also been explained in the Secretariat's note on the subject. He expressed his readiness to consider carefully all the suggestions made by delegations. He pointed out the problems which would arise from reliance on temporary personnel or irregular sources of funding and emphasized the need for the General Assembly to provide a clear mandate, so that he could prepare a plan of action on the ways and means to achieve this task.

125. At the end of its deliberations, the Special Committee recalled that in General Assembly resolution 50/52 the Committee had been requested to consider the current status of the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs, and that in General Assembly resolutions 35/164 of 15 December 1980 and 36/123 of 11 December 1981 the Secretary-General had been requested to give high priority to the preparation and publication of the supplements to the Repertoire and the Repertory in order to bring those publications up to date as quickly as possible.

126. The Committee noted the value of these publications to the Organization, to Member States and to institutions and interested individuals, and expressed appreciation for the note by the Secretariat (A/AC.182/L.87) of 21 February 1996 on their status. It invited the General Assembly to request the Secretary-General, taking into account the views expressed and the practical suggestions made during the debates held within the framework of the Committee, to expedite the preparation and publication of the supplements and to submit a progress report on the matter to the General Assembly before its fifty-second session.

VII. IDENTIFICATION OF NEW SUBJECTS FOR CONSIDERATION IN THE FUTURE WORK OF THE SPECIAL COMMITTEE

127. Observations relating to new subjects for consideration in the future work of the Special Committee with a view to contributing to the revitalization of the work of the United Nations, and to the ways of offering its assistance to the Working Groups of the General Assembly in that field, were made in plenary meetings of the Special Committee. Furthermore, in accordance with the decision taken by the Special Committee at its 209th meeting pursuant to paragraph 7 of General Assembly resolution 50/52, the question was also considered by the Working Group at its 10th to 13th meetings, held from 29 February to 4 March 1996.

A. Consideration of the working paper submitted by the Russian Federation, entitled "Draft declaration on the basic principles and criteria for the work of United Nations peace-keeping missions and mechanisms for the prevention and settlement of crises and conflicts"

128. At the 214th meeting of the Special Committee, on 29 February 1996, the representative of the Russian Federation introduced the above working paper (A/AC.182/L.89), which read as follows:

"DRAFT DECLARATION ON THE BASIC PRINCIPLES AND CRITERIA FOR THE WORK OF UNITED NATIONS PEACE-KEEPING MISSIONS AND MECHANISMS FOR THE PREVENTION AND SETTLEMENT OF CRISES AND CONFLICTS

"The General Assembly,

"Referring to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Manila Declaration on the Peaceful Settlement of International Disputes, the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field, the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security and the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security,

"Aware that one of the main threats to the maintenance of security and stability in the regions and the world as a whole is the new generation of conflicts, including conflicts associated with inter-ethnic, inter-faith, political, territorial and other contradictions both between States and within them,

"Recognizing that the new generation of conflicts leads to deaths and suffering for the broad mass of the civilian population, the destruction of State infrastructure and the undermining of regional and global security,

"Stressing the primary responsibility of the Security Council for the maintenance of international peace and security, under Article 24 of the Charter of the United Nations,

"Considering that the growth in the number and intensity of conflicts requires the adoption of urgent measures by the international community in order to prevent, restrain and suppress them,

"Affirming also that the rights and obligations of the Security Council remain immutable and are retained to the full in the maintenance or restoration of international peace and security,

"Stressing that adherence to the principles of sovereignty, territorial integrity and political independence of States and respect for human rights are of crucial importance for any joint efforts to prevent and eradicate crises and conflicts and bring about their peaceful settlement,

"Noting that there is now a clear need to adopt additional measures in order to strengthen the potential of the United Nations in the fields of preventive diplomacy, peacemaking and post-conflict peace-building, and where appropriate, peace-keeping,

"Considering that the United Nations has accumulated a great deal of experience and has achieved favourable results in the peaceful settlement of a number of crises and conflicts and that the practice of conducting peace-keeping operations on the basis of the consent and cooperation of the parties has proved its effectiveness,

"Taking into account the recommendation contained in the note by the President of the Security Council of 28 May 1993 12/ that all States should make participation in and support for international peace-keeping a part of their foreign and national security policy,

"Considering that the effective utilization of United Nations instruments and mechanisms in the prevention and settlement of crises and conflicts would help ensure collective security in accordance with the Charter of the United Nations,

"Noting that it would be very useful and timely to standardize and regulate the operation of United Nations missions, instruments and mechanisms acting in the sphere of conflict and crisis detection, prevention and resolution and peacemaking and to enhance their practical performance, thereby making a substantial contribution to the further development of the anti-crisis potential of the United Nations in accordance with its Charter,

"Solemnly proclaims that in the conduct of United Nations peace-keeping missions, instruments and mechanisms (hereinafter referred to as 'mechanisms'), including fact-finding missions, military and civilian observer groups, missions of representatives of the Secretary-General and observer missions, and of peace-keeping operations, the following basic principles and criteria shall be observed:

"1. The basic goal of the mechanisms shall be to provide assistance and help in establishing contacts between the parties to a conflict and organizing negotiations between them, and in so doing to promote the

political process of crisis resolution with a view to the eventual establishment of a situation of peace, harmony, trust and stability;

"2. The primary requirement in the formulation of the mandate of the mechanisms by the Security Council and other United Nations bodies is that they should be valid under international law and that the inclusion in the mandate of elements which are prejudicial to the neutrality and impartiality of the mechanisms should be prevented;

"3. The mandate of the mechanisms must have as its basis the Charter of the United Nations, Security Council decisions and bilateral and multilateral international agreements concluded in this sphere;

"4. In formulating and implementing the mandate of the mechanisms, close cooperation with the parties to the conflict is of great importance;

"5. All States, in their approaches to conflict settlement, must have as their starting-point respect for the primacy of the United Nations, as envisaged in the Charter of the United Nations, in the sphere of the maintenance or restoration of international peace and security;

"6. The Security Council and other United Nations organs, in formulating measures for the settlement of crises and conflicts, shall take into account the need for the most precise assignment possible of the functions of all the mechanisms involved in a settlement in order to avoid duplication of work, rivalry and an undesirable proliferation of mechanisms providing mediation services and good offices;

"7. The peace-keeping activity of regional arrangements and agencies is legitimate under the terms of Chapter VIII of the Charter of the United Nations. They are entitled to take the initiative and carry out a broad range of actions, with the exception of the use of force, which must be approved by the Security Council;

"8. In the settlement of a conflict, the presence of a clear political goal and a precise mandate for the mechanisms, subject to periodic review and to change in its character and duration, are of great importance. The work of a mechanism may be officially terminated only by the United Nations body which took a decision to activate the mechanism;

"9. One of the main conditions for the operation of a mechanism is to have the consent of the relevant parties to its initiation and to the continuation of its activity and also to ensure the cooperation of the parties to the conflict both with each other and with the mechanism;

"10. The mechanisms shall be open to multinational participation with the consent of all the parties involved in the settlement of the conflict. An appropriate level of transparency must be ensured in their activity;

"11. In planning and using the mechanisms, the most careful attention must be paid to questions of ensuring the safety and protection of personnel. In the country in which a mechanism is deployed, reliable security conditions must be created, and violent assaults on the lives and health of the personnel of the mechanism must be prevented;

"12. By agreement among the parties to a conflict, the mechanisms may be entrusted with additional functions defined in memoranda of

understanding, cease-fire or truce agreements or agreements on the political settlement of conflicts, etc. However, any such expansion of the functions of a mechanism must be approved by the United Nations Security Council;

"13. The mechanisms must coordinate and link their work with other instruments for the prevention and peaceful settlement of conflicts - preventive diplomacy, peacemaking, and post-conflict peace-building;

"14. Between the United Nations and the State(s) in whose territory a mechanism is operating, arrangements must be made (agreements must be concluded) regulating the legal status of the personnel of the mechanism and the procedure for their relations with the authorities of the country of deployment;

"15. An important criterion for the use of the mechanisms is the presence of an adequate financial and administrative base (including questions of the diversification of the sources of funding for the mechanisms; covering expenses from voluntary contributions of States, donations in cash or in kind from major corporations, non-governmental organizations, funds and other private sources; participation of the receiving country in covering expenses; establishment of a voluntary fund to finance peace-keeping mechanisms and operations, etc.);

"16. The mechanisms must have a unified and clearly defined command and control structure ensuring the orderly and effective discharge of the mandate assigned to them, and precise coordination of the political, military, humanitarian, civilian and administrative components of any activity must be ensured;

"17. Any cases of withdrawal of the consent of a party to the use of the mechanisms must be taken up immediately in the body which issued the mandate;

"18. The success of the mechanisms' work depends to a considerable extent on active information efforts designed to help develop constructive links between the parties to a conflict and a better understanding of the objectives and nature of the mechanisms by the population of all countries and to ensure support for the mechanisms on the part of world public opinion;

"19. Coordination of the work of the mechanisms and the activities of humanitarian organizations must be ensured, and must take into account the fact that a considerable number of humanitarian organizations (the Office of the United Nations High Commissioner fqr Refugees, the International Committee of the Red Cross, the United Nations Children's Fund, the World Food Programme and others) have their own permanent mandates which are sometimes not directly related to the goals and objectives of the mechanisms and have an independent, autonomous character;

"20. The work of the mechanisms, including humanitarian assistance provided within their framework, shall not be a replacement for the peaceful settlement of conflicts and is designed only to promote the attainment of that goal;

"21. In organizing cooperation between the mechanisms and humanitarian organizations it must be borne in mind that humanitarian activities are

carried out on the basis of the principles of a humane attitude towards all victims, the impartial provision of assistance without any discrimination and distinction as to political or ideological convictions, race, religion, sex or national affiliation, and a neutral approach;

"22. The United Nations mechanisms shall cooperate closely with regional arrangements and agencies and may draw on their resources, experience, specialized knowledge and assistance in order to promote the maintenance of peace and stability and the political settlement of crises and conflicts."

129. In introducing the working paper, the sponsor explained that its underlying intention was to consolidate the legal basis for the work of the United Nations peace-keeping missions and mechanisms for the prevention and settlement of crises and conflicts. He observed that a formulation of the relevant basic principles and criteria on the basis of the practice of the Organization over the past 50 years would contribute to the further development of the Organization's anti-crisis potential and to the progressive development and concretization of the relevant provisions of the Charter. A set of such principles and criteria not only was useful for the functioning of the Security Council, but could also serve as a model for various regional and subregional organizations and structures active in that area.

130. He further observed that although important declarations had been developed by the Special Committee (including the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field and the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security), a document along the lines of the present proposal for dealing with inter-faith, inter-ethnic conflicts both between States or within a State had yet to be prepared by the Committee.

131. The proposed set of basic principles and criteria was not meant to be final and could be adjusted in the future. It covered all relevant mechanisms in the area, preserving and developing their specific features without adversely affecting the rights and duties of States and the powers of the principal organs of the United Nations under its Charter. It stressed the primary responsibility of the Security Council for the maintenance of international peace and security.

132. In the Working Group, the sponsor stressed that the Special Committee, since its creation, had been extremely productive in all major areas of its work dealing with such issues as the maintenance of international peace and security, the peaceful settlement of disputes between States and the rules and procedures of the General Assembly. Although the Committee had adopted a number of important instruments and documents in those areas, contributing to the creation of a global system of collective security, there were other areas that it could still usefully address. He referred specifically to the legal issues relevant to the work of regional and subregional organizations and of the General Assembly of the United Nations, in conjunction with other working groups of the Organization currently active. In his view, the Special Committee could also contribute to the preparation of various documents in the area of codification and progressive development of international law and, in particular, a draft document for the Third International Peace Conference to be convened in 1999 at the end of the Decade of International Law. The draft declaration under consideration had been conceived as part of that process. Its preambular part highlighted that the main motivating force behind the draft declaration was the emergence and the growth of a number of a new generation of conflicts

threatening the maintenance of security and stability in various regions and the world as a whole. The proposed text also took into account the valuable experience of various regional organizations in that field. The draft declaration contained a lot of basic principles and criteria for the work of United Nations peace-keeping missions and mechanisms in the field of the prevention and settlement of crises and conflicts. Such principles and criteria would provide a solid normative foundation for the activities of the Organization in that area and could be revised and perfected in the future. The sponsor observed that the need for the elaboration of such principles had been repeatedly stated by the Secretary-General. Various regional and subregional organizations and structures could also benefit from such criteria and principles.

133. The sponsor also stressed that the basic goal of the mechanisms should be to provide assistance and help in establishing contacts between the parties to a conflict and organizing negotiations between them with a view to the establishment of a situation of peace, trust and stability. The mandate of the mechanisms should be based on the Charter of the United Nations, Security Council decisions and bilateral and multilateral international agreements concluded in that sphere. He stressed that in formulating and implementing the mandate of the mechanisms, close cooperation with the parties to the conflict was of great importance. The consent of the relevant parties must be one of the main conditions for its operation and any case of withdrawal of the consent of a party to the use of the mechanism must be taken up immediately by the body which had issued the mandate. Coordination of the work of the mechanisms and the activities of humanitarian organizations had also to be ensured. The sponsor further suggested that the draft declaration, after having being discussed and perfected within the framework of the Committee, could be approved by consensus during one of the future sessions of the General Assembly.

134. Several delegations pointed out that, although a number of issues covered by the draft declaration had been taken up by other forums or covered by existing international instruments, that should not preclude the Committee from examining a document that contained several interesting ideas and important elements, providing assistance to the working groups of the General Assembly referred to in paragraph 7 of Assembly resolution 50/52. Some delegations stressed that the time had come to summarize in a single document various issues, basic principles and criteria covered by the working paper. It was also observed that while the text deserved to be kept on the Special Committee's agenda, the heading and the content of the draft document should be more concise and clearly defined, its structure could be rationalized and its provisions dealing with the sources of funding for the relevant mechanisms should be based on a more realistic approach.

135. One delegation expressed the view that the question of peace-keeping having such great importance, merited more than just a declaration and a restatement of basic principles and criteria. This delegation further pointed out that the legal basis for United Nations peace-keeping was still incomplete and suggested consideration of the possible inclusion of an additional Chapter in the Charter of the United Nations, detailing the scope and objectives of peace-keeping and reflecting peace-keeping as a legitimate endeavour of the United Nations. The need to develop guiding principles for United Nations peace-keeping in conflict situations, particularly in intra-State conflicts, as well as the development of an agreement on the definition of a breach of international peace and security were also mentioned by that delegation.

136. Some delegations, while expressing their readiness to examine the text of the working paper, wondered whether the draft document duplicated the work being done in other forums and whether all the issues covered in it would fall within the competence of the Committee. A detailed clarification of the types of activities of the Organization covered by the draft declaration was considered necessary. Doubts were also expressed about the format of the draft document.

137. In response, the sponsor observed that the draft declaration was intended to cover various activities and mechanisms of the United Nations in the areas of the prevention and peaceful settlement of conflicts, especially of the new generation of conflicts, and of peacemaking at all the stages, including detecting and establishing various factual aspects of conflicts, appraising their possible consequences and recommending measures for the prevention of their escalation, conducting peacemaking activities, providing good offices and dispatching observer missions, etc. Concerning the issue of possible duplication of work, he responded that the Committee had a mandate to consider specific proposals submitted by States, that a collective consideration by various working groups could lead to positive results and that new ideas emerging within the framework of other working bodies could be incorporated in the draft declaration. As regards the form, the sponsor stated that the format of a declaration had generally been accepted in the past for documents emanating from the Special Committee. He agreed that the provisions of the draft declaration dealing with the sources of funding for the relevant mechanisms should be further specified, and suggested that, at its next session, the Special Committee undertake, in accordance with past practice, a paragraph-by-paragraph examination of the draft declaration.

B. Other proposals concerning identification of new subjects for consideration in the future work of the Special Committee with a view to contributing to the revitalization of the work of the United Nations, and to discussing how to offer its assistance to the working groups of the General Assembly in this field

138. In the context of general statements made in plenary meetings, the view was expressed that the Special Committee's accomplishments had been rather modest, both in the area of the strengthening of the role of the Organization and even more so with respect to the review of Charter provisions. It was nevertheless believed that the Committee could usefully contribute to the ongoing discussions on the reform of the United Nations, in particular by providing legal advice with regard to questions concerning amendments to the Charter or the rules of procedure of various United Nations bodies. It was further suggested that the Special Committee undertake an examination of a number of provisions of the Charter which had not been fully implemented, such as Articles 31, 44 and 109, paragraph 3. There was, however, also the view that the role and duration of the sessions of the Special Committee should be reassessed in the light of the need to rationalize the use of resources and avoid duplication.

139. The fact that the Special Committee had become an open-ended body was welcomed. It was moreover suggested that the Committee consider the question of the composition of other subsidiary organs of the General Assembly, such as the Conference on Disarmament.

140. It was further observed that the Special Committee should continue working on the question of cooperation between the United Nations and regional arrangements or agencies.

141. In the Working Group, some delegations pointed out that the Committee had already significantly contributed to the strengthening of the United Nations, especially in the area of international law, and had prepared a number of important instruments in the fields of the maintenance of international peace and security and the peaceful settlement of disputes. The point was made that, for the purpose of further utilization of its potential with a view to contributing to the revitalization of the work of the Organization, the Committee should recommend that the General Assembly draw to the attention of the various working groups on reform aspects of the United Nations that they could utilize the Special Committee's legal expertise and technical assistance in connection with juridical aspects of the Charter. It was observed that the Special Committee was the most appropriate forum for considering the various legal aspects involved in the issues concerning the revitalization and reform of the Organization.

142. Some other delegations, expressing concern regarding the possible duplication of the work of the Committee with the work of other forums within the United Nations, observed that it might be difficult and unrealistic to achieve a complete separation between the legal and the political aspects of the work of those bodies.

143. Some delegations, however, stressed that the Special Committee should not be precluded from dealing with important issues relevant to the Charter and to the strengthening of the Organization, since it had been originally and specifically mandated to consider those questions, before the establishment of different various working groups dealing in political terms with aspects of such issues. A view was expressed that the priority in considering the relevant legal matters linked to the Charter should be given to the Special Committee, which was better equipped than other non-legal bodies to deal professionally with such issues.

144. In view of the ongoing informal meetings among the chairmen of the United Nations reform groups, the Chairperson of the Special Committee pointed out that the President of the General Assembly had expressed an interest in the participation of the chairmen of the Special Committee in consultations with the chairmen of other bodies dealing with the reform of the Organization. In this connection and for the purpose of avoiding duplication of work, some delegations spoke in favour of a dialogue between the chairmen or the bureaux of the Special Committee and of other relevant bodies, such as various working groups established within the United Nations. Such a dialogue, it was suggested, should also include the President of the General Assembly and the chairmen of regional groups and should be aimed at proper coordination, demarcation and harmonization of their work, making it more efficient and focusing on the most important issues to be identified during such consultations.

145. The view was also expressed that the Chairperson of the Special Committee should conduct consultations with the Chairman of the Open-ended Working Group on An Agenda for Peace to familiarize that Working Group with the work of the Special Committee on the implementation of Article 50 of the Charter, including its view to consider all aspects of the imposition of sanctions.

146. One delegation further suggested that the Chairman of the Sixth Committee should be invited to conduct consultations at the beginning of the fifty-first session of the General Assembly with the President of the Assembly and the Chairmen of the Open-ended Working Group on An Agenda for Peace and of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the

Security Council, in order to familiarize them with the work of the Special Committee and to exchange views on how the Special Committee could contribute in the reform process of the United Nations and report to the Sixth Committee on the results of his consultations before the end of the fifty-first session of the General Assembly.

147. The view was also expressed that the work of the Special Committee should not interfere with the ongoing political process in the different working groups of the General Assembly, conducted within each working group in accordance with its specific mandate.

148. Some other delegations expressed doubts as to whether, once the Special Committee's session was over, its Chairman or its Bureau had any role to play in accordance with the limited mandate approved by the General Assembly for the Special Committee. In those delegations' view, extending the functions of the Chairman or the Bureau for a longer period was a decision to be taken by the General Assembly, not the Committee.

149. Some delegations spoke in favour of expanding the agenda of the Special Committee. It was suggested, in this connection, that, as requested by the General Assembly in paragraph 4 (c) of resolution 50/52, the Committee should consider proposals relating to the enhancement of the role of the International Court of Justice, which would be especially appropriate in the year of the fiftieth anniversary of the Court. The view was expressed that the ways to accept the Court's contentious jurisdiction could be studied and that resort to its advisory opinions should be expanded. The suggestion was also made that one way to strengthen the Court might be to review its composition in the light of article 9 of its Statute. It was also suggested that consideration be given to the issue of relations between the Court and the Security Council in order to establish how the Council could benefit from the judicial opinions of the Court.

150. Other delegations expressed doubts as to whether issues related to the International Court of Justice needed to be taken up by the Special Committee.

151. Some representatives expressed their support for the idea to start an in-depth examination of the Charter provisions that had not yet been sufficiently applied and implemented, by further defining their specific contents and developing their interpretation. The need to clarify and specify the rights and obligations of the Security Council and Member States under Chapter VII of the Charter was mentioned in this connection. Attention was also drawn to Articles 31, 44 and 103 as well as to Articles 18, 19 and 32 of the Charter and to rule 103 of the rules of procedure of the General Assembly.

152. Attention was drawn to the need to examine the provisions of Chapter VIII of the Charter, dealing with regional arrangements and, in particular, to Articles 52 to 54. In this connection it was pointed out that, as a follow-up to the Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security (General Assembly resolution 49/57 of 9 December 1994), the Committee should start consideration of the issue of practical ways and means of the organization of cooperation between the United Nations and regional organizations. For that purpose, it should inquire during its next session what relevant legal questions had been discussed during the second meeting of the Secretary-General of the United Nations with the heads of 14 regional organizations, which had taken place on 15 and 16 February 1996. It was noted that the United Nations could benefit from valuable experience that had been

accumulated by various regional organizations during the recent period of their active functioning.

153. Also in connection with possible areas in which the Special Committee could undertake work in the future, one representative made reference to the working paper submitted by the Russian Federation to the Committee at its 1993 session under the title "New issues for consideration in the Special Committee" (A/AC.182/L.65/Rev.1).

154. The view was also expressed that the Committee should concentrate its work on concretization and development of general provisions of the Charter without attempting to undermine their foundation in order to avoid destructive consequences of the revision of the Charter for the international community.

155. It was suggested that the Committee should start dealing on an urgent basis with relevant issues of the new generation of conflicts, formulate the definition of a "threat to international peace and security" in connection with Article 39 of the Charter owing to its importance for the application of sanctions, examine the meaning and practical ways of the application of "provisional measures" in the context of Article 40, formulate the principles and elements of regional and global systems of collective security and begin preparation of a draft convention on the prevention and peaceful settlement of disputes and conflicts with the assistance of a third party.

156. The view was also expressed that the topic of the application of sanctions and of the creation of mechanisms of assistance to third States affected by their application should continue to be on the agenda of the work of the Special Committee.

157. It was further proposed that the Special Committee should consider issues related to situations in which subsidiary bodies of the General Assembly did not abide by decisions of the Assembly (the inability of the Conference on Disarmament to implement the Assembly's decision to expand the membership of the Conference was cited as an example). It was also suggested that consideration should be given to the establishment of an independent appellate mechanism that would consider impartially whether or not a party had indeed fulfilled the requirements of the sanctions regimes. The primary task of such a mechanism would be to give an independent and impartial opinion, which need not be binding on the Security Council. This mechanism could remain ad hoc and consist, if necessary, of members of the International Court of Justice and other eminent jurists.

158. Some delegations felt that the Committee's session should return at least to its former duration of three weeks. Other delegations suggested a reduction of the session of the Committee to one week, subject to a previous examination of its agenda.

159. Some delegations, advocating flexibility, proposed that the Special Committee, in addition to its regular session, should meet on an ad hoc basis whenever its services were needed. It was also pointed out that this institutional arrangement was a consequence of paragraph 7 of General Assembly resolution 50/52.

160. There was also the suggestion that the regular session of the Special Committee should be biennial, meeting on an ad hoc basis on off years, if its services were considered necessary. Other delegations expressed reservations in that regard.

161. Several delegations stressed that the sessions of the Special Committee should be held somewhat later in the year and not so near the closure of the session of the Sixth Committee, in order to enable delegations to be better prepared to deal with the mandate of the Special Committee.

162. In the view of some delegations, who stressed the ad hoc nature of the Special Committee, its existence should not be maintained artificially and routinely by seeking at all costs new topics for its mandate. The Committee's mandate should be renewed only if the General Assembly considered that there was sufficient ground for reconvening it.

163. The view was also expressed that, as part of an overall review of subsidiary bodies of the General Assembly, another possibility was for those committees whose accomplishments had been rather modest to be reabsorbed into their parent committee, and in this case there was much to be said for the Sixth Committee taking back the work of the Special Committee.

164. Other delegations noted that the intention of paragraph 7 of resolution 50/52 had not been to call into question the existence of the Special Committee, but only to define better its role in the future in the context of the ongoing efforts to revitalize the Organization. It was also pointed out that the subject of paragraph 7 of resolution 50/52 was not a review of the future of the Special Committee, for which no mandate had been given. The view was expressed that the Special Committee should prepare a programme for its future work and envisage extending the length of its session up to three weeks for the preparation of an appropriate document.

Notes

1/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33 (A/36/33), para. 7.

2/ Ibid., Fiftieth Session, Supplement No. 33 (A/50/33), para. 47.

3/ Ibid., para. 56.

4/ A/50/60-S/1995/1, para. 75.

5/ A/50/361, paras. 4, 9 and 14.

6/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 33 (A/50/33), para. 56.

7/ Ibid., para. 62.

8/ Ibid., para. 63.

9/ United Nations, Treaty Series, vol. 1155, p. 331.

10/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 1 (A/49/1).

11/ See A/50/142.

12/ S/25859.